

United States District Court

WESTERN DISTRICT OF MICHIGAN

UNITED STATES OF AMERICA

V.

ANDREW J. DEVRIES

ORDER OF DETENTION PENDING TRIAL

Case Number: 1:11-mj-28

In accordance with the Bail Reform Act, 18 U.S.C. §3142(f), a detention hearing has been held. I conclude that the following facts require the detention of the defendant pending trial in this case.

Part I - Findings of Fact

- ☐ (1) The defendant is charged with an offense described in 18 U.S.C. §3142(f)(1) and has been convicted of a (federal offense) (state or local offense that would have been a federal offense if a circumstance giving rise to federal jurisdiction had existed) that is
- ☐ a crime of violence as defined in 18 U.S.C. §3156(a)(4).
- ☐ an offense for which the maximum sentence is life imprisonment or death.
- ☐ an offense for which the maximum term of imprisonment of ten years or more is prescribed in _____
- ☐ a felony that was committed after the defendant had been convicted of two or more prior federal offenses described in 18 U.S.C. §3142(f)(1)(A)-(C), or comparable state or local offenses.
- ☐ (2) The offense described in finding (1) was committed while the defendant was on release pending trial for a federal, state or local offense.
- ☐ (3) A period of not more than five years has elapsed since the (date of conviction) (release of the defendant from imprisonment) for the offense described in finding (1).
- ☐ (4) Findings Nos. (1), (2) and (3) establish a rebuttable presumption that no condition or combination of conditions will reasonably assure the safety of (an) other person(s) and the community. I further find that the defendant has not rebutted this presumption.

Alternate Findings (A)

- ☒ (1) There is probable cause to believe that the defendant has committed an offense
- ☒ for which a maximum term of imprisonment of ten years or more is prescribed in Adam Walsh Act
- ☐ under 18 U.S.C. §924(c).
- ☒ (2) The defendant has not rebutted the presumption established by finding 1 that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community.

Alternate Findings (B)

- ☐ (1) There is a serious risk that the defendant will not appear.
- ☒ (2) There is a serious risk that the defendant will endanger the safety of another person or the community.

The defendant has been charged in multiple counts with aggravated sexual abuse or sexual abuse of a minor under the age of 12 in the Northwestern Division of the District of North Dakota. The conduct, which involved defendant's step-daughter, is alleged to have spanned a period of 4 years. The matter was apparently brought to light when the minor told her grandparents, who went to the police. The police then talked to the mother and the victim, who both denied a problem. The grandmother then intervened and the mom admitted to the police that she had lied. At that point, a trained social worker from the Northern Plains Advocacy Center questioned the girl using standardized questions (continued on attachment)

Part II - Written Statement of Reasons for Detention

I find that the credible testimony and information submitted at the hearing establishes by clear and convincing evidence that

no condition or combination of conditions will assure the safety of the community, based upon the un rebutted presumption that arises in this case to that effect. Without knowing more about the facts surrounding this incident, or the constraints that could be placed on the defendant short of incarceration when he returns to Minot, the court cannot find today that there is a condition or combination of conditions that will assure the safety of the alleged victim from (continued on attachment)

Part III - Directions Regarding Detention

The defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver the defendant to the United States marshal for the purpose of an appearance in connection with a court proceeding.

Dated: April 11, 2011/s/ Hugh W. Brenneman, Jr.*Signature of Judicial Officer*Hugh W. Brenneman, United States Magistrate Judge*Name and Title of Judicial Officer*

Alternate Findings (B) - (continued)

developed by the National Child Advocacy Center, which led to the six-count indictment.

The mother is divorcing the defendant because she wants to be with somebody else. The fact that she did not initiate contact with the police about this matter, and in fact lied to the police when first asked about it, indicates she is not using this information to further her attempt to get a divorce.

Defendant can stay with his mother's cousin, 45 minutes from the courthouse.

Defendant has a minor criminal record involving domestic violence. There is no record he has failed to appear, and there is no history of drug or alcohol abuse. He appears to be a well-regarded LPN and a marine who was deployed overseas and has an honorable discharge. His parents are very supportive.

Part II - Written Statement of Reasons for Detention - (continued)

harm from defendant (even if it were only psychological as a result of physical contact by him with her and/or her mother), if placed in her vicinity.